

Attorney Docket No.: RU-0176
Inventors: Ryan and Bagnell
Serial No.: 10/079,040
Filing Date: February 20, 2002
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REMARKS

Claim 1 is pending in the instant application. Claim 1 has been rejected. Claim 1 has been amended. No new matter has been added by this amendment. Reconsideration is respectfully requested in light of the following remarks.

I. Rejection of Claims Under 35 U.S.C. §103

Claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Stewart et al. ((1992) *Biol. Reprod.* 46:648-52) in view of Stewart et al. ((1982) *J. Reprod. Fertil.* 32:603-9). The Examiner suggests that it would have been obvious to one of ordinary skill in the art to modify the teaching of Stewart et al. (1992) to include evaluating oxytocin as a treatment for conditions that alter placental function because an increase and decrease in relaxin levels are directly correlated with placental function as disclosed in Stewart et al. (1982). Applicants respectfully disagree.

The present invention is a method employing the measurement of relaxin levels to evaluate treatment efficacy in pregnant mares affected by a disease or condition that alters placental function wherein said disease or condition can have an adverse affect on the health or well-being of the *fetus or delivered foal*. See page 9, lines 5-12 of the instant specification. In response to Applicants' arguments filed 10-27-04, the Examiner suggests that as oxytocin is used to treat retained placenta and retained placenta constitutes altered placental function, oxytocin would be administered to release the placenta thereby improving pregnancy outcome, which includes the health of the *mare*. However, the specification specifically states that in the

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context of the present invention a problematic pregnancy or delivery is an adverse outcome to a pregnancy where the health of the *fetus or foal* is adversely affected. See page 9, lines 12-17 of the specification. Thus, it would be clear to one of skill in the art that the administration of oxytocin for retained placenta would not constitute an effective treatment to improve pregnancy outcome for a fetus or foal as oxytocin is generally used for premature termination of a pregnancy. Further, as written, claim 1 states that levels of relaxin in blood of the mare are measured following administration of the drug or treatment administration until the time of delivery of the mare. As placenta retention generally occurs after delivery of a foal, the skilled artisan would not apply the method of the instant invention to monitoring treatment of retained placenta with oxytocin.

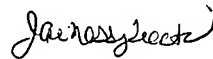
In an earnest effort to further clarify the present invention, Applicants have amended claim 1 to recite that the intended result of administering a drug or treatment in pregnant mares affected by a disease or condition that alters placental function is to improve pregnancy outcome for a fetus or foal. As would be appreciated by the skilled artisan, the application of oxytocin and the measurement of relaxin levels as disclosed by Stewart et al. (1992) and Stewart et al. (1982) fail to make obvious the instant method which embraces the positive correlation that exists between improved pregnancy outcome for a fetus or foal upon treatment of a disease or condition and an increase in circulating relaxin levels. In view of this amendment and the accompanying remarks, it is respectfully requested that this rejection be reconsidered and withdrawn.

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II. Conclusion

The Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claim is earnestly solicited.

Respectfully submitted,



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Date: April 13, 2005

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